



No. 11

April 23, 2012

S. 1925 – Violence Against Women Reauthorization Act of 2011

Reported by the Senate Judiciary Committee on February 7, 2012, by a vote of 10-8 along party lines.

Noteworthy

- On Wednesday, April 25, 2012, the Senate is expected to proceed to consideration of S. 1925, the Violence Against Women Reauthorization Act of 2011, also known as VAWA.
- S. 1925 expands and reauthorizes the Violence Against Women Act of 1994.
- The bill requires federal grantees to provide services without discriminating on the basis of sex, sexual orientation, and gender identity.
- Section 904 confers criminal jurisdiction to certain participating Indian tribal governments over all persons in Indian country, including non-Indians. The Senate Judiciary Committee held no hearing on this significant change.
- The bill authorizes appropriations of \$660 million annually over the 2012-2016 period.
- Section 805 increases the number of U visas by allowing for the recapture of previously authorized but un-issued U visas up to 5,000 per year, once annual caps have been reached.

Overview

S. 1925 authorizes programs in the Department of Justice and the Department of Health and Human Services to help prevent and reduce violence against women. VAWA originally passed Congress in 1994. The law has been reauthorized twice – in 2000 (passed the Senate 95-0) and 2005 (passed the Senate by unanimous consent). S. 1925 has 60 co-sponsors.

House Action

No indication has been given by the House of Representatives on how it will proceed with VAWA reauthorization.

Bill Provisions

Section 1 – Short Title

This section provides that the Act may be cited as the “Violence Against Women Reauthorization Act of 2011.”

Section 2 – Table of Contents

This section provides a table of contents for the bill.

Section 3 – Universal Definitions and Grant Conditions

This section amends 42 U.S.C. § 13925, which contains two subsections that apply to all VAWA programs: definitions (§ 13925(a)) and grant conditions (§ 13925(b)). It makes several modifications to the definitions subsection:

- 1) Expands the definition of “domestic violence” to include acts by an “intimate partner”;
- 2) Defines “community based organization” as nongovernmental, nonprofit organizations, or tribal organizations in underserved areas;
- 3) Broadens the definition of “rural area” to include federally recognized Indian tribes;
- 4) Adds new definitions for:
 - a. “Culturally specific services,” meaning services directed toward racial and ethnic minority groups;
 - b. “Population specific services,” meaning services directed toward “underserved populations,” which is defined as people “who face barriers in accessing and using victim services ... because of geographic location, religion, sexual orientation, gender identity.”
 - c. “Tribal coalitions,” by removing Alaskan native women and including Native Hawaiian organizations designed to assist Indian women and the descendants of those women.
- 5) Defines “youth” as anyone between the ages of 11 and 24.

This section includes technical updates to VAWA definitions, which are incorporated throughout the bill.

This section also modifies some of the conditions to which all VAWA programs must adhere, as set forth in (§ 13925(b)). Modifications to the grant conditions subsection include:

- 1) Requires training for grantee and sub-grantee recipients providing assistance to victims;
- 2) Strengthens nondisclosure restrictions on grantees, including the prohibition against conditioning services on whether a victim consents to the release of confidential information;
- 3) Permits grantees to provide information to, or collaborate with, public officials as a way of advocating for policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking. This does not remove the prohibitions in VAWA against lobbying for more funding.
- 4) Forbids grantees from discriminating on the basis of race, color, religion, national origin, sex, gender identity, sexual orientation, or disability in providing services. This non-discrimination provision excepts sex segregation or sex-specific programming where it is essential to the operation of a program, provided the program provides comparable services to those who are excluded.
- 5) This section directs the Inspector General of the Department of Justice to audit grantees. Grantees with an “unresolved audit finding” cannot receive further grants for two years. This section also requires the Attorney General to give priority to grantees without “unresolved audit findings.” Misused funds must be reimbursed to the U.S. Treasury.
 - a. “Unresolved audit finding” is defined as an audit report, recommendation, finding, or statement that the grantee has used funds for an unauthorized expenditure that is not resolved within one year of notification.

Section 4 – Effective Date

This section adds an effective date for certain titles and provisions to be the beginning of the fiscal year following the enactment of the Act.

Title I – Enhancing Judicial and Law Enforcement Tools to Combat Violence Against Women

Section 101 – STOP Grant

This section reduces funding for STOP grants from \$225 million to \$222 million. It also amends 42 U.S.C. § 3796gg(b) to specify that the protection and safety of victims are also a reason for the apprehension of perpetrators of domestic violence and to include domestic violence, dating violence, sexual assault, and stalking throughout the section. The section amends § 3796gg to include new report requirements for grantees on the implementation of training programs. It also allows for grants to tribal coalitions to help reduce violence against Native American women.

This section changes the application for state grants available under 42 U.S.C. § 3796gg-1 to require states to submit an implementation plan.

It amends 42 U.S.C. § 3796gg-4 to continue funding for rape exam payments as well as requiring coordination with health care providers to notify victims (at no cost) of the availability of such exams. This section also adds a requirement that may not condition examinations on whether a victim cooperates with law enforcement or the criminal justice system.

Section 102 – Grants to Encourage Arrest Policies and Enforce Protection Orders (GTEAP, or “Arrest”)

This section amends 42 U.S.C. § 3796hh to expand the issuance of grants, including grants for training law enforcement on the appropriate use of U and T visa applications.

The authorized funding for Arrest is reduced from \$75 million to \$73 million.

Section 103 – Legal Assistance for Victims (LAV)

This section amends 42 U.S.C. § 3796gg-6 to expand legal assistance for victims. It also increases training requirements for eligible entities to ensure the relevant expertise is available in providing legal assistance to victims. Entities without such expertise may provide assistance if they complete appropriate training in this area of law and also practice while partnered with a legal assistance provider with demonstrated expertise. Additionally, this section allows grantees to recruit, train, and mentor pro bono attorneys and law students.

The authorized funding for LAV is reduced from \$65 million to \$57 million.

Section 104 – Consolidated Grants to Support Families in the Justice System

This section amends 42 U.S.C. § 10420 and repeals 42 U.S.C. § 14043 in an effort to consolidate programs that train judges and court personnel about the intersection of domestic violence and family court proceedings. It authorizes funding at \$22 million, which sponsors say is a \$3 million reduction from the aggregate total of the programs pre-consolidation.

Section 105 – Sex Offender Management

This section reauthorizes funding at \$5 million for training personnel who work with released sex offenders pursuant to 42 U.S.C. § 13941.

Section 106 – Court-Appointed Special Advocate Program (CASA)

This section reauthorizes the CASA program at funding of \$12 million (42 U.S.C. § 13014(a)) and amends 42 U.S.C. § 13012 to establish annual reporting requirements.

Section 107 – Criminal Provision Relating to Stalking, Including Cyber Stalking

This section amends the federal anti-stalking statute (18 U.S.C. § 2261A) to include forms of communication such as mail, computer service, or electronic communication services used to engage in stalking.

Section 108 – Outreach and Services to Underserved Populations

This section amends 42 U.S.C. § 14045 to replace the existing Outreach to Underserved Populations grant program, which focused on public information campaigns, with a program offering outreach services in underserved communities. Authorized funding remains at \$2

million, but is augmented with a two percent set-aside from funds appropriated to the STOP and Arrest programs.

Section 109 – Culturally Specific Services Grant

This section removes the terms “linguistically” and “linguistic” from 42 U.S.C. § 14045a to clarify that the program is not limited to linguistically specific services. Funding remains the same.

Title II – Improving Services for Victims of Domestic violence, Dating Violence, Sexual Assault, and Stalking

Section 201 – Sexual Assault Services Program (SASP)

The SASP program provides grants to states and territories (as well as other entities) for the purpose of offering sexual assault victim services. This section changes 42 U.S.C. § 14043g to categorize the District of Columbia and Puerto Rico as states rather than territories for purposes of calculating funding allocations. It reduces SASP authorized funding from \$50 million to \$40 million.

Section 202 – Rural Domestic Violence, Dating Violence, Sexual Assault, Stalking, and Child Abuse Enforcement Assistance

This section amends 42 U.S.C. § 13971 by expanding the purpose areas for which grants may be awarded to rural jurisdictions. Authorized funding is reduced from \$55 million to \$50 million.

Section 203 – Training and Services to End Violence Against Women with Disabilities

This section amends 42 U.S.C. § 3796gg-7 to reauthorize grants for disabled victims of sexual assault. This section adds the use of evidence-based indicators to assess the risk of domestic and dating violence homicide as an additional purpose for funding. Authorized funding is reduced from \$10 million to \$9 million.

Section 204 - Enhanced Training and Services to End Abuse in Later Life

This section amends 42 U.S.C. § 14041 to create a comprehensive grant program to prevent abuse of the elderly. Under this new section, entities may also educate and train health care providers, faith-based leaders, and conduct outreach activities to ensure that victims of elder abuse receive appropriate assistance. Authorized funding is reduced from \$10 million to \$9 million.

Title III – Services, Protection, and Justice for Young Victims of Violence

Section 301 – Rape Prevention and Education Grant (RPE)

This section amends 42 U.S.C. § 280b-1b to modify the RPE grant program funding to allow a minimum allocation of \$150,000 for every state, the District of Columbia, and Puerto Rico.

Every other U.S. territory receives \$35,000. Unused or remaining funds are distributed on the basis of population. Authorized funding for RPE is reduced from \$80 million to \$50 million.

Section 302 – Creating Hope through Outreach, Options, Services, and Education for Children and Youth (CHOOSE Children & Youth)

This section amends 42 U.S.C. § 14043c through 42 U.S.C. § 14043c-3 to consolidate eight current grants into two programs. The authorized funding for this consolidated grant program is \$15 million, a \$15 million reduction from the \$30 million authorized by the individual programs.

Section 303 – Grants to Combat Violent Crime on Campuses (Campus Program)

This section amends U.S.C. § 14045b for grants issued to institutions of higher learning. Among the changes are reductions of grant amounts per institution from \$500,000 to \$300,000. Grantees also must comply with the following new minimum requirements: (1) implementing a coordinated community response both on and off campus; (2) providing prevention education for all incoming students; (3) providing training on domestic violence, dating violence, sexual assault, and stalking for campus law enforcement; and (4) providing training on such crimes to members of the campus judicial board. Authorized funding for the Campus program is reduced from \$15 million to \$12 million.

Section 304 – Campus Sexual Violence, Domestic Violence, Dating Violence, and Stalking Education and Prevention

This section amends 20 U.S.C. § 1092(f), the Clery Act, which requires colleges and universities to provide information about campus security policies and crime statistics to students and staff. It also includes domestic violence, dating violence, and stalking incidents as required statistics to be kept by campus security. This section requires institutions to inform their community of the policies and procedures related to domestic violence, dating violence, sexual assault, and stalking. This includes disclosures regarding the disciplinary proceedings when alleged offenses are reported, and the policies and procedures in place to protect the confidentiality of the victim.

This section requires that the policies set by institutes of higher learning include prevention and awareness education programs.

This section also sets forth procedures for institutional disciplinary action in cases of domestic violence, dating violence, sexual assault, or stalking.

This section also defines “sexual assault” as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the FBI. “Forcible” is defined, in some instances, under the uniform crime reporting system “or not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.”

There are no funds authorized for this section.

Title IV – Violence Reduction Practices

Section 401 – Study Conducted by the Centers for Disease Control and Prevention

This section amends 42 U.S.C. § 280b-4(c) to reduce funding for CDC research for the reduction of domestic violence, dating violence, sexual assault, and stalking from \$2 million to \$1 million.

Section 402 – Saving Money and Reducing Tragedies through Prevention Grants (SMART)

This section operates in conjunction with Section 302 of this bill and amends 42 U.S.C. 14043d-2 to provide funds for three purposes: (1) raising awareness about teen dating violence; (2) preventing children from being exposed to violence at home; and (3) helping men to serve as role models. This section also repeals 42 U.S.C. §§ 14043d-3 and 14043d-4, and 42 U.S.C. § 14045c. Authorized funding for this consolidated program is \$15 million, a \$22 million reduction from the \$37 million authorized for the individual programs.

Title V – Strengthening the Health Care System’s Response to Domestic Violence, Dating Violence, Sexual Assault, and Stalking

Section 501 – Consolidated Grants to Strengthen the Health Care System’s Response to Domestic Violence, Dating Violence, Sexual Assault, and Stalking

This section amends 42 U.S.C. § 280g-4 and repeals 42 U.S.C. §§ 13973 and 294h to consolidate three existing VAWA programs. This section creates a program focused on grants for training and education programs for health professionals and students in health professions. This section also promotes the development of strategies for improving responses of health care facilities to domestic violence. Grantees may be nonprofit organizations, a healthcare provider, an accredited healthcare school, or a state, local, or tribal governmental entity.

Authorized funding is set at \$10 million, a \$3 million reduction from the \$13 million authorized for the individual programs.

Title VI – Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

Section 601 – Housing Protections of Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

This section modifies 42 U.S.C. § 14043e et. seq. to change housing protections for victims. First, it extends the housing protections to victims of sexual assault. Second, it replaces the term “immediate family member” with the expanded term “affiliated individual.” This definition encompasses “any individual, tenant, or lawful occupant living in the household.” Third, VAWA housing protections are extended to nine federal programs that are not covered currently. No funds are authorized for this section.

Section 602 – Transitional Housing Assistance Grants for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

This section amends 42 U.S.C. § 13975 et. seq. to provide grants for support services to help victims with job training and employment counseling. Authorized funding is reduced from \$40 million to \$35 million.

Section 603 – Addressing the Housing Needs of Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

This section reauthorizes two VAWA housing programs at 42 U.S.C. § 14043e-3(i) and 42 U.S.C. § 14043e-4(g) and reduces authorized funding from \$10 million to \$4 million for each.

Title VII – Economic Security for Victims of Violence

Section 701 – National Resource Center on Workplace Responses to assist Victims of Domestic and Sexual Violence

This section reauthorizes funding at \$1 million for the operation of the National Resource Center on Workplace Responses.

Title VIII – Protection for Battered Immigrants

Section 801 – U Nonimmigrant Visa Definition

This section amends 8 U.S.C. § 1101(a)(15)(U)(iii) to include stalking as an enumerated crime for U visa eligibility.

Section 802 – Annual Report on Immigration Applications Made by Victims of Abuse

This section requires the Secretary of Homeland Security to report annually on various data involving T or U visa or VAWA self-petition applications.

Section 803 - Protections for Children of VAWA Self-petitioners

This section amends 8 U.S.C. § 1154(l)(2) to include the minor children of VAWA self-petitioners to be considered for lawful status.

Section 804 – Public Charge

This section amends 8 U.S.C. § 1182(a) to prohibit barring VAWA self-petitioners, U visa holders or petitioners, or T visa holders who would otherwise be inadmissible from admission on public charge grounds.

Section 805 – Requirements Applicable to U Visas

This section amends 8 U.S.C. § 1184(p)(2) to allow for the recapture of previously authorized but un-issued U visas if the annual cap is reached in a given fiscal year. No more than 5,000 recaptured U visas may be issued before the end of the fiscal year.

This section also amends 8 U.S.C. § 1184(p) to allow for the age determination of a derivative U visa applicant to be treated as under 21 years of age if the principal U visa applicant filed a petition when the derivative child was under 21 years of age.

Section 806 – Hardship Waivers

This section amends 8 U.S.C. § 1186(c)(4) to provide greater discretion for the Secretary of Homeland Security to grant hardship waivers.

Section 807 – Protections for a Fiancée or Fiancé of a Citizen

This section amends 8 U.S.C. § 1184 to expand allowances under the K visa application process.

Section 808 – Regulation of International Marriage Brokers

This section requires an international marriage broker to confirm that potential K visa recipients are of the age of consent. This section also requires the GAO to report on implementation of International Marriage Brokers Act of 2005.

Section 809 – Eligibility of Crime and Trafficking Victims in the Commonwealth of the Northern Mariana Islands to Adjust Status

This section amends 48 U.S.C. § 1806 note to allow T and U visa holders who are physically present in the Commonwealth of the Northern Mariana Islands to count their time toward the three-year requirement of continuous presence when adjusting their immigration status.

Title IX – Safety for Indian Women

Section 901 – Grants to Indian Tribal Governments

This section amends 42 U.S.C. § 3796gg-10(a) to include sex trafficking crimes to the enumerated crimes for which tribes receive grant money to address needs in Indian communities. This section also allows for grant money to be directed toward additional two purpose areas. First, for developing and promoting legislation and policies to enhance best practices for responding to domestic violence, dating violence, sexual assault, sex trafficking, and stalking in Indian country. Second, for addressing the needs of youth victims in Indian country and the needs of children exposed to domestic violence, dating violence, sexual assault, or stalking.

Section 902 – Grants to Indian Tribal Coalitions

This section amends 42 U.S.C. § 3796gg (d) to modify the existing tribal coalition grant program.

Section 903 – Consultation

This section amends 42 U.S.C. § 14045d to require the Attorney General to report to Congress on annual consultations of the administration of programs funded by VAWA, and on the administration's recommendations for administering tribal funds and programs.

Section 904 – Tribal Jurisdiction Over Crimes of Domestic Violence

This section amends the Indian Civil Rights Act of 1968 (25 U.S.C. § 1301 et. seq.) to confer criminal jurisdiction to certain “participating” Indian tribal governments over all persons in Indian country, including non-Indians. This section defines “special domestic violence criminal jurisdiction” as “the criminal jurisdiction that a participating tribe may exercise under this section but could not otherwise exercise.” This section recognizes and reaffirms the inherent powers of a participating tribe to exercise special domestic violence criminal jurisdiction “over all persons.” Special domestic violence criminal jurisdiction includes domestic and dating violence, and violations of protective orders.

This section asserts that this jurisdiction is concurrent with federal and state jurisdictions. Jurisdiction under the special domestic violence jurisdiction can only be established by demonstrating a nexus to the Indian tribe.

It also authorizes grants to assist tribes with carrying out this section. Authorized funding for this section is \$5 million.

Section 905 – Tribal Protection Orders

This section amends 18 U.S.C. § 2265 to state that tribal courts have full civil jurisdiction “to issue and enforce protection orders involving any person, including the authority to enforce any through civil contempt proceedings, to exclude violators from Indian land.”

Section 906 – Amendments to the Federal Assault Statute

This section amends 18 U.S.C. § 113 to include violations of the federal aggravated sex abuse (18 U.S.C. § 2241) and sexual abuse (18 U.S.C. § 2242) under the federal assault statute. This section also includes: a 10-year offense for assaulting a spouse, intimate partner, or dating partner by strangling or suffocating; a five-year offense for assaulting a spouse, intimate partner, or dating partner resulting in substantial bodily injury; and a one-year offense for assaulting a person by striking, beating, or wounding.

Section 907 – Analysis and Research on Violence Against Indian Women

This section amends 42 U.S.C. § 3796gg-10 to expand the study of violence committed against Native American women to include women in Alaska native villages and sex trafficking crimes.

Authorized funding for the study remains at \$1 million. Funding for tribal sex offender registries remains \$1 million.

Section 908 – Effective Dates; Pilot Project

This section sets the effective date for this title as the date of enactment for the bill with the exception of section 904 which would go into effect two years after the date of enactment.

Section 909 – Indian Law and Order Commission

This section amends 25 U.S.C. § 2812(f) to extend the Indian Law and Order Commission reporting deadline from two years to three years. It also directs the Attorney General to report to Congress within one year after enactment whether the Alaska Rural Justice Law Enforcement Commission should be continued.

Title X – Other Matters

Section 1001 – Criminal Provisions Relating to Sexual Abuse

This section amends 18 U.S.C. § 2243(b) to expand prohibitions and penalties for sexual abuse of minors or custodial wards.

Section 1002 – Sexual Abuse in Custodial Settings

This section clarifies that all federal custodial and correctional facilities are covered by the Prison Rape Elimination Act of 2003.

Section 1003 – Anonymous Online Harassment

This section amends 47 U.S.C. § 223 by removing the intent to “annoy” as an element of one of the crimes. It also modifies who may be an intended victim in order to cover harassing communications that are intended for, but not directly received by, a specific person.

Section 1004 – Stalker Database

This section reauthorizes a stalking and domestic violence database at \$3 million.

Section 1005 – Federal Victim Assistants

This section reauthorizes a grant program to appoint victim assistants who aid in the prosecution of sexual assault and domestic violence crimes.

Section 1006 – Child Abuse Training for Judicial Personnel and Practitioners

This section reauthorizes a training grant for judges, child welfare advocates, and other judicial personnel to improve child service agencies.

Section 1007 – Mandatory Minimum Sentence

This section amends 18 U.S.C. § 2241(a) to require a five-year mandatory minimum sentence to the crime of aggravated sexual assault.

Section 1008 – Removal of Drunk Drivers

This section amends 8 U.S.C. § 1101(a)(43)(F) to include a third drunk driving conviction to the list of aggravated felonies for which an alien may be deported. It does not apply retroactively.

Administration Position

The Obama Administration [supports](#) S.1925.

Cost

The [Congressional Budget Office](#) indicates that S. 1925 would authorize the appropriation of \$660 million annually over the 2012-2016 period. Implementing S. 1925 would cost \$2.2 billion over the 2012-2017 period.

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